

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

THEODORE SCOTT

:

Plaintiff

:

v

:

Civil Action No. JFM-06-2287

PATRICIA JESSAMY

:

Defendant

:

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MEMORANDUM

The above-captioned civil rights complaint, filed August 29, 2006, alleges that plaintiff's public defender violated his civil rights with respect to her representation in his criminal trial. Paper No. 1. In addition to the complaint, plaintiff has filed a motion to proceed in forma pauperis. Paper No. 2. Because he appears to be indigent, his motion shall be granted. For the reasons that follow, the complaint must be dismissed without prejudice.

Plaintiff asserts that he is entitled to money damages because the public defender assigned to his case violated his rights when a twenty-four year-old criminal conviction was relied upon to induce him to plead guilty to assault charges. Paper No. 1. Plaintiff pled guilty to second degree assault on September 7, 2005, and has filed petitions for writ of habeas corpus in this court seeking to challenge that conviction which were dismissed for failure to exhaust state remedies. *See Scott v. Jessamy*, Civil Action No. JFM-06-1407 (D. Md. 2006); *Scott v. Jessamy*, Civil Action No. JFM-06-2286 (D. Md. 2006). The claims asserted in the instant complaint implicate the validity of plaintiff's criminal conviction and may not be raised unless or until plaintiff's conviction is reversed, expunged, invalidated, or impugned. *See Heck v. Humphrey*, 512 U. S. 477, 487 (1994). Plaintiff's claims for damages cannot be entertained by this court

unless he has first successfully challenged his criminal conviction. Complaints raising claims implicating the validity of a criminal conviction prior to the reversal of that conviction must be dismissed without prejudice and, in the event the conviction is reversed, may be raised at that time.

A separate order follows.

September 14, 2006

Date

/s/

J. Frederick Motz
United States District Judge